CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

Mason City Council and Mason Board of Education

Joint Recognition Ceremony

6:30 PM

CITY COUNCIL MEETING - COUNCIL CHAMBER

Monday, February 1, 2016
7:30 p.m.

AGENDA

1. Call to Order
2. Roll Call
3. Pledge of Allegiance and Invocation
4. Announcements
5. People from the Floor
6. Consent Agenda
   A. Approval of Minutes
      - Regular Council Meeting: January 18, 2016
   B. Approval of Bills in the Amount of $158,902.29
   C. Motion – Reschedule the March 7, 2016 City Council Meeting to February 29, 2016 due to the Presidential Primary Election
   D. Approval of Excused Absences for Councilmember Bruno
7. Regular Business
   A. Resolution – Approval of the Memorandum of Understanding Between Delhi Township and the City of Mason to Provide Fire Services in a Portion of Alaiedon Township
   B. Motion – Approval of Change Order to the Awarded Contract for the Ash Street Well Rehabilitation
8. Unfinished Business
9. New Business
   A. Resolution Calling for the Repeal of Public Act 269 – Councilmember Brown
10. Correspondence
    - Report from City Attorney Hitch
    - MML – Letter and Membership Certificate
    - Jack Carmichael – Letter and Attachments
11. Liaison Reports
12. Councilmember Reports
13. Administrator's Report
14. Adjournment

CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF JANUARY 18, 2016

Waltz called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Droscha led the Pledge of Allegiance and offered the invocation.

Present:	Councilmembers: Brown, Bruno, Clark, Droscha, Ferris, Mulvany, Waltz
Absent:	Councilmember: None
Also present:	Deborah S. Stuart, City Administrator
	Deborah J. Cwiertniewicz, City Clerk
	Eric Smith, Finance Director/Treasurer

OATH OF OFFICE

City Clerk Cwiertniewicz administered the oath of office to Deborah S. Stuart, City Administrator.

ANNOUNCEMENTS

None.

PEOPLE FROM THE FLOOR

None.

PUBLIC HEARING – 2016 SIDEWALK IMPROVEMENTS

Mayor Waltz opened the public hearing at 7:34 p.m.

Jacob Houser of 624 South Barnes Street stated that he wanted to inform Council that he is concerned that the choice of sidewalk marked for improvement doesn't need it.

Mayor Waltz closed the public hearing at 7:36 p.m.

Consent Agenda

MOTION by Droscha, second by Ferris,
to approve the Consent Agenda as follows:

A. Motion – Approval of Minutes – Regular Council Meeting: January 4, 2016
B. Motion – Approval of Bills - $88,523.28

MOTION APPROVED

REGULAR BUSINESS

Resolution – 2016 Sidewalk Special Assessment Resolution No. 3, Project 2016-1

MOTION by Brown, second by Droscha,
to consider City Council Resolution – 2016 Sidewalk Special Assessment Resolution No. 3, Project 2016-1 read.
MOTION APPROVED

City Council Resolution – 2016 Sidewalk Special Assessment Resolution No. 3, Project 2016-1 was introduced by Mulvany, seconded by Brown.

CITY OF MASON
2016 SIDEWALK IMPROVEMENTS
SPECIAL ASSESSMENT RESOLUTION NO. 3
PROJECT NO. 2016-1
January 18, 2016

WHEREAS, the City Council of the City of Mason, pursuant to the provisions of Chapter 66 of the City's Code of Ordinances and the relevant provisions of the City Charter, did on Monday, the 21st day of December, 2015, adopt resolutions tentatively approving the installation and construction of certain sidewalk improvements (the "Project," described below), and the establishment of a special assessment district therefore for the purpose of defraying all or a portion of the cost of the Project, which Project and special assessment district therefore are more specifically hereinafter described; and

WHEREAS, this City Council did meet in the City Council Chambers, City Hall, 201 West Ash Street, Mason, Michigan, on Monday, the 18th day of January, 2016, at 7:30 o'clock, p.m., the time, date and place set by the City Council to conduct a public hearing to hear any objections to the Project and to the proposed special assessment district therefore; and

WHEREAS, estimates of cost of said Project are on file with the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make the following described sidewalk improvements:

The installation of sidewalks and related improvements, and/or replacement of sidewalks in the public right-of-way of the following properties and along and adjacent to the following streets: V/L Cedar St, Hartwell Terrace, 201 E Ash, 306 E Ash, 314 E Ash, 315 E Ash, 322 E Ash, 323 E Ash, 328 E Ash, 333 E Ash, 400 E Ash, 403 E Ash, 405 E Ash, 423 E Ash, 430-432 E Ash, 435 E Ash, 438 E Ash, 522 E Ash, 534 E Ash, 540 E Ash, 544 E Ash, 549 E Ash, 621 E Ash, 625 E Ash, 703 E Ash, 715 E Ash, 732 E Ash, 739 E Ash, 759 E Ash, 809 E Ash, 819 E Ash, 831 E Ash, 837 E Ash, 755-757 W Ash, 803 W Ash, 809 W Ash, 624 S Barnes, 625 S Barnes, 702 S Barnes, 1100 S Cedar, 1103 S Cedar, 100-102 E Cherry, 122 E Cherry, 126 E Cherry, 210 E Cherry, 223 E Cherry, 226 E Cherry, 227 E Cherry, 232 E Cherry, 615 S Jefferson, 144 W Kipp, 216 W Kipp, 1010 S Lansing, 216 E Oak, 305 E Oak, 401 Peachtree, 405 S Rogers, 415 S Rogers, 518 S Rogers, 519 S Rogers, 703 S Rogers, 316 Walnut; and

2. The City Council hereby approves the plans and estimate of cost for the Project in the sum of $61,815, and approves the additional estimated sum of $9,270 to defray legal, financing and administrative costs. Of the estimated total cost of $71,085, the City Council determines to assess $28,895.63 of that amount against benefiting property owners in the City.

3. The City Council determines that the special assessment district for the Project shall consist of the lots and parcels of land in the area of the City described in **Exhibit A**, attached hereto and incorporated herein by reference, and excluding all streets and other land deemed not benefited.

4. The City Council hereby directs the City Assessor to make, and report to the City Council within thirty (30) days from the date of this resolution, a special assessment roll in which shall be described all of the parcels of land to be assessed as set forth with the names of the owners thereof, if known, and the total amount to be assessed against each parcel of land, which amounts shall be such relative proportion of the whole sum to be levied against all parcels of land in the special assessment district as, on a front foot basis, the benefit to such parcel bears to the total benefit of all parcels of land in the special assessment district, all in accordance with Section 66-7 of the City's Code of Ordinances, and subject to review and modification by the City Council.

5. When the City Assessor shall have completed the special assessment roll, he shall affix thereto his certificate, pursuant to Section 66-9 of the City's Code of Ordinances, stating that said roll was made pursuant to a resolution of the City Council, adopted on January 18, 2016, for the purpose of paying that part of the cost which the City Council decided should be paid and borne by special assessment for the Project, that in making such assessment he has, as near as may be, and according to his best judgment, conformed in all things to the directions contained in the resolution of the City Council hereinbefore referred to, and the Charter of the City relating to such assessment, and the City Assessor shall then, within thirty (30) days from the date of this resolution, report the special assessment roll with his certificate attached thereto to the City Council.

6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be, and the same are, hereby rescinded.

RESOLUTION APPROVED

Resolution – 2016 Sidewalk Special Assessment Resolution No. 4, Project 2016-1

MOTION by Brown, second by Droscha,
to consider City Council Resolution 2016 Sidewalk Special Assessment Resolution No. 4, Project 2016-1read.
MOTION APPROVED

City Council Resolution 2016 Sidewalk Special Assessment Resolution No. 4, Project 2016-1 was introduced by Brown, seconded by Mulvany.

CITY OF MASON
2016 SIDEWALK IMPROVEMENTS
SPECIAL ASSESSMENT RESOLUTION NO. 4
PROJECT NO. 2016-1
January 18, 2016

WHEREAS, by resolution adopted Monday, January 18, 2016, the City Council of the City of Mason determined to install and construct the more particularly hereinafter-described sidewalk improvements (the "Project") and assess all or a portion of the cost thereof against the property deemed benefited by the Project, all in accordance with Chapter 66 of the City's Code of Ordinances and the relevant provisions of the City Charter; and

WHEREAS, the City Assessor has prepared and reported to the City Council a special assessment roll assessing all or a portion of the cost of the Project to the property benefited thereby with his certificate attached thereto pursuant to Section 66-9 of the City's Code of Ordinances; and

WHEREAS, the City Council desires to schedule a public hearing to review and hear objections to the special assessment roll.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The special assessment roll shall be filed with the office of the City Clerk and shall be available for public examination during regular business hours on regular business days.

2. The City Council shall meet at 7:30 o'clock in the p.m., on Monday, the 21st day of March, 2016, in the City Council Chambers, City Hall, 201 West Ash Street, Mason, Michigan 48854, for the purpose of reviewing and hearing objections to the special assessment roll.

3. The City Clerk shall cause notice of the hearing and the filing of the special assessment roll to be given to all interested property owners as provided by Chapter 66 of the City's Code of Ordinances and the relevant provisions of the City Charter. The notice as published and mailed shall be in substantially the following form:

NOTICE OF HEARING
CITY OF MASON
INGHAM COUNTY, MICHIGAN
NOTICE OF PUBLIC HEARING ON THE
SPECIAL ASSESSMENT ROLL FOR THE
2016 SIDEWALK IMPROVEMENTS SPECIAL ASSESSMENT DISTRICT 2016-1

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF MASON, INGHAM COUNTY, MICHIGAN, the owners of the land described below within the 2016 Sidewalk Improvements Special Assessment District 2016-1, and any other interested persons:

PLEASE TAKE NOTICE that the City Assessor has reported to the City Council and filed in the office of the City Clerk for public examination a special assessment roll prepared by him, which roll includes all properties that are within the 2016 Sidewalk Improvements Special Assessment District 2016-1, and are benefited by the proposed sidewalk improvement project generally described as follows:

The installation and/or replacement of sidewalks in the public right-of-way of the following properties and along and adjacent to the following streets: V/L Cedar St, Hartwell Terrace, 201 E Ash, 306 E Ash, 314 E Ash, 315 E Ash, 322 E Ash, 323 E Ash, 328 E Ash, 333 E Ash, 400 E Ash, 403 E Ash, 405 E Ash, 423 E Ash, 430-432 E Ash, 435 E Ash, 438 E Ash, 522 E Ash, 534 E Ash, 540 E Ash, 544 E Ash, 549 E Ash, 621 E Ash, 625 E Ash, 703 E

Ash, 715 E Ash, 732 E Ash, 739 E Ash, 759 E Ash, 809 E Ash, 819 E Ash, 831 E Ash, 837 E Ash, 755-757 W Ash, 803 W Ash, 809 W Ash, 624 S Barnes, 625 S Barnes, 702 S Barnes, 1100 S Cedar, 1103 S Cedar, 100-102 E Cherry, 122 E Cherry, 126 E Cherry, 210 E Cherry, 223 E Cherry, 226 E Cherry, 227 E Cherry, 232 E Cherry, 615 S Jefferson, 144 W Kipp, 216 W Kipp, 1010 S Lansing, 216 E Oak, 305 E Oak, 401 Peachtree, 405 S Rogers, 415 S Rogers, 518 S Rogers, 519 S Rogers, 703 S Rogers, 316 Walnut; and

The special assessment roll has been prepared for the purpose of assessing a portion of the costs of the acquisition and construction of the sidewalk improvement project and work incidental thereto within the special assessment district, as more particularly shown on the plans of the City's engineers, which are on file and available for public examination with the City Clerk at the City Hall, 201 West Ash Street, Mason, Michigan, within the City. The total estimated assessment there under is $28,895.63.

PLEASE TAKE FURTHER NOTICE that the City Assessor has further reported that the assessment against each parcel of land within the special assessment district is such relative portion of the whole sum levied against all parcels of land in the special assessment district as the benefit to such parcel bears to the total benefit to all parcels of land in the district.

PLEASE TAKE FURTHER NOTICE that the City Council will meet on Monday, the 21st day of March, 2016, at 7:30 o'clock, p.m., in the City Council Chambers, City Hall, 201 West Ash Street, Mason, Michigan 48854, for the purpose of reviewing the proposed special assessment roll and hearing any objections thereto. The special assessment roll may be examined at the office of the City Clerk during regular business hours of regular business days until the time of the hearing and may further be examined at the hearing.

Appearance and protest at the hearing, in person or in writing, are required in order to appeal the action of the City Council in approving the special assessment roll, and/or the amount of an assessment, to the state tax tribunal. A property owner or party in interest, or his or her agent, may appear in person at the hearing to protest the special assessment proceedings or may file his or her appearance and protest by letter and his or her personal appearance will not be required. The owner or any person having an interest in the real property who protests in person or in writing at the hearing may file a written appeal of a special assessment with the state tax tribunal within 35 days of the date the special assessment roll is confirmed by the City Council.

Further information regarding the 2016 Sidewalk Improvements special assessment project is available at the City Clerk's office, City Hall, 201 West Ash Street, Mason, Michigan 48854.

Dated: January 18, 2016

_____
Deborah Cwiertniewicz, City Clerk
City of Mason
Ingham County, Michigan

4. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be, and the same are, hereby rescinded.

RESOLUTION APPROVED

Resolution – Declaring an Additional Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason

Brown gave a brief update of Planning Commission discussions and work regarding declaring an additional temporary moratorium on the issuance of licenses for primary caregiver operations and dispensaries. Further discussion was held concerning the length of time that has been spent on this matter. It was questioned whether it was an issue to consider anymore.

MOTION by Droscha, second by Brown,
to consider City Council Resolution Declaring an Additional Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason read.

Yes (5) Brown, Clark, Droscha, Ferris, Mulvany, Waltz
No (2) Bruno, Droscha
MOTION APPROVED

Introduced by Brown, seconded by Mulvany, City Council Resolution Declaring an Additional Temporary Moratorium on the Issuance of Licenses for Primary Caregiver Operations and Dispensaries in the City of Mason.

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2016-03
EXTENDING THE MORATORIUM ON THE ISSUANCE OF LICENSES FOR PRIMARY CAREGIVER OPERATIONS AND DISPENSARIES IN THE CITY OF MASON
January 18, 2016

WHEREAS, the People of the state of Michigan have adopted, by initiative, the Michigan Medical Marihuana Act (the "Act"); and

WHEREAS, the Act authorizes primary caregivers to assist qualifying patients in obtaining medical marihuana by allowing the primary caregiver to grow, possess, and deliver limited amounts of marihuana to the patients and receive compensation for doing so; and

WHEREAS, the Act's provisions have resulted in primary caregivers combining to form what has come to be termed "dispensaries" in adjacent municipalities in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the Act would otherwise allow for a single primary caregiver are being possessed and stored on single lots and properties; and

WHEREAS, the Act does not regulate or even necessarily allow for dispensaries and many significant aspects of the operation of a dispensary could affect the health, safety and welfare of the citizens of the City of Mason; and

WHEREAS, the Michigan Supreme Court has made it clear that dispensaries in which multiple registered primary caregivers operate from a single building to create situations in which amounts of marihuana greater than the Act would otherwise allow for a single primary caregiver are illegal; and

WHEREAS, the Act does not regulate many significant aspects of the operation of a primary caregiver that could affect the health, safety and welfare of the citizens of the City of Mason; and

WHEREAS, the City had previously adopted an ordinance which was understood to have the effect of prohibiting primary caregiver operations and dispensaries within the City; and

WHEREAS, the Michigan Supreme Court has determined such ordinances to be in conflict with the Act but also has stated that the use of Marihuana pursuant to the Act may be regulated; and

WHEREAS, the City of Mason intends to regulate primary caregiver operations and possibly prohibit dispensaries to ensure the health, safety and welfare of its citizens; and

WHEREAS, the City of Mason, as part of the regulatory process, has adopted an ordinance requiring primary caregiver operations and dispensaries to be licensed; and

WHEREAS, in light of pending legislation and court rulings, the City of Mason Planning Commission is in the process of considering and studying how to effectively regulate dispensaries and primary caregiver operations to meet the intent of the Act while preserving the health, safety and welfare of its citizens;

WHEREAS, at their May 18, 2015 meeting, the Mason City Council adopted Resolution 2015-20 establishing a moratorium on medical marihuana operations and dispensaries that will expire on January 31, 2016; and

WHEREAS, on September 24, 2015 the Mason Planning Commission held a public input meeting to determine the attitudes, opinions and suggestions for regulating primary caregivers; and

WHEREAS, at their January 12, 2016 meeting, the Mason Planning Commission requested additional time to finish a draft ordinance after careful study of the issue of medical marihuana, including national and local trends, ordinance examples, and public input meetings, etc.; and

WHEREAS, the City Council desires that no licenses be authorized or issued in the City of Mason for dispensaries or primary caregiver operations until the process to determine the appropriate and necessary regulations is concluded.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. No applications for licenses for primary caregiver operations shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

2. No applications for licenses for dispensaries shall be accepted and no licenses shall be issued from the effective date of this resolution and while the moratorium enacted by this resolution or any subsequently adopted resolutions which may extend this moratorium shall remain in effect.

3. This limited moratorium on the issuance of primary caregiver operation licenses and dispensary licenses shall be extended by 90 days to April 30, 2016.

VOTE:
Yes (4) Brown, Ferris, Mulvany, Waltz
No (3) Bruno, Clark, Droscha

RESOLUTION APPROVED

UNFINISHED BUSINESS

It was discussed that Pat Price, Administrator Stuart, and Mayor Waltz had reviewed and discussed the Michigan Municipal League (MML) Administrator Evaluation Process. MML has options for presenting a process by working with staff and Council. Mr. Price has offered to rework the document and present a draft process for Council to review at a future work session. Mr. Price will not be charging an additional fee for his work on this task.

NEW BUSINESS

Mulvany requested to have the food truck business discussion placed on the Historic District Commission agenda.

CORRESPONDENCE

All correspondence was distributed.

LIAISON REPORTS

- Brown informed Council regarding Planning Commission business.
- Waltz informed Council regarding Downtown Development Authority business.

COUNCILMEMBER REPORTS

Ferris informed Council regarding the "ride along program" she had with Officer Service and Fairbotham.

ADMINISTRATOR'S REPORT
Stuart informed Council regarding city business.

ADJOURNMENT
The meeting adjourned at 8:01 p.m.

Deborah J. Cwiertniewicz, City Clerk

Mike Waltz, Mayor

01/29/2016 09:08 AM
User: TF
DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON
EXP CHECK RUN DATES 02/01/2016 - 02/03/2016
BOTH JOURNALIZED AND UNJOURNALIZED
BOTH OPEN AND PAID
COUNCIL REPORT

MONDAY, FEBRUARY 1, 2016

Vendor Code / Invoice / GL Number	Vendor Name / Invoice Description / GL Description	Amount	
06474	CONSUMERS ENERGY		
FEB 2016	ELECTRICITY 12/22 - 1/23		
101-265.00-920.000	ELECTRICITY 12/22 - 1/23	7,761.21	
592-559.00-920.000	ELECTRICITY 12/22 - 1/23	5,143.55	
		12,904.76	
		VENDOR TOTAL:	12,904.76
05016	GRANGER		
JAN 2016	JANUARY REFUSE SERVICE #2318 CUSTOMERS		
101-528.00-818.000	JANUARY REFUSE SERVICE #2318 CUSTOMERS	28,418.68	
		VENDOR TOTAL:	28,418.68
05434	INGHAM COUNTY DRAIN COMM.		
2921	AT LARGE DRAIN ASSESSMENTS		
592-557.00-818.000	AT LARGE DRAIN ASSESSMENTS	9,204.51	
		VENDOR TOTAL:	9,204.51
07325	MERIDIAN TOWNSHIP		
OCT-DEC 2015	BUILDING INSPECTIONS 10/1/2015 - 12/31/2015		
101-265.00-818.000	BUILDING INSPECTIONS 10/1/15 - 12/31/15	6,600.00	
		VENDOR TOTAL:	6,600.00
06993	PREIN & NEWHOF		
33094	PROFESSIONAL SERVICES FOR WWTP HEADWORKS UPGRADE		
592-555.00-970.000	PROFESSIONAL SERVICES HEADWORKS UPGRADE	20,182.40	
		VENDOR TOTAL:	20,182.40
08120	PRICE, PATRICK		
6/2015 - 1/2016	JUNE 2015 TO JANUARY 2016 ACTING CITY ADMINISTRATOR WORK HOURS		
101-172.00-818.000	6/2015 - 1/2016 ACTING CITY MANAGER	47,406.75	
		VENDOR TOTAL:	47,406.75
05363	WOLVERINE ENGINEERS INC		
20160024	ENGINEERING SOUTH CEDAR ST GRANT PROJ#12-0005		
202-451.00-970.211	ENGINEERING SOUTH CEDAR ST GRANT	13,563.70	
20160026	ENGINEERING MDOT LOCAL SAFETY PROGRAM PROJ#11-0045		
202-451.00-970.211	ENGINEERING MDOT LOCAL SAFETY PROGRAM	12,058.87	
20160038	ENGINEERING WELL 9 BID DOCUMENTS/PERMITS TO D.E.Q. PROJ#12-0055		
592-558.00-970.017	ENGINEERING WELL 9 PROJ#12-0055	8,562.62	
		VENDOR TOTAL:	34,185.19
		TOTAL - ALL VENDORS:	158,902.29

I hereby certify that I have reviewed the above bills and expenditures and to the best of my knowledge and belief, they cover expenditures of the City services and materials and are within current budget appropriations.

Deborah S Stuart
City Administrator

CITY OF MASON

STAFF AGENDA REPORT TO THE CITY COUNCIL

Meeting Date: February 1, 2016 **Agenda Item:** 6C

AGENDA ITEM
Motion – Reschedule the March 7, 2016 City Council Meeting to February 29, 2016 due to the Presidential Primary Election

EXHIBITS
None.

STAFF REVIEW
Office of the City Clerk

SUMMARY STATEMENT
Since moving into the new city hall building in 2010, it has been necessary to cancel, reschedule, or call a special City Council meeting due to repurposing the Council Chambers and community room as polling locations when a Federal, State, county, local, or special Election is called.

A Presidential Primary is being held March 8, 2016. It is the recommendation of staff to reschedule the March 7, 2016, City Council meeting to Monday, February 29, 2016 at 7:30 p.m.

Arrangement of equipment and set up of polling locations, break room/training room for inspectors, and crowd control is completed in the week before an election. The entire building is utilized each election, including the Fire Department training room for sequestering the Absent Voter Counting Board.

RECOMMENDED ACTION
Move to approve the request of the City Clerk to reschedule the Monday, March 7, 2016, meeting to Monday, February 29, 2016 at 7:30 p.m. due to Presidential Primary Election being held on Tuesday, March 8, 2016.

January 20, 2016

Honorable Mayor Waltz
201 West Ash Street
Mason MI 48854

Honorable Mayor Waltz and Mason City Council Members:

I, Leslie Bruno, Jr., am requesting, as per Section 5.2(3) of the City of Mason's Charter, to be excused from the Mason City Council meetings of February 15, March 7 and March 21, 2016. I will be out-of-state on these dates. As always, I will be available by email or by phone (956-461-0233 or 517-676-4398).

Respectfully submitted,

Leslie W. Bruno, Jr.

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: February 1, 2016 **Agenda Item:** 7A

AGENDA ITEM

Resolution – Approval of the Memorandum of Understanding Between Delhi Township and the City of Mason to Provide Fire Services in a Portion of Alaiedon Township

EXHIBITS

Proposed Memorandum of Understanding (MOU) Between Delhi Township and the City of Mason for Fire Services within Alaideon Township

STAFF REVIEW

Fire Department

SUMMARY STATEMENT

Delhi Township is contracted by Alaiedon Township to provide Fire Services. In January 2014, Delhi Township entered into an MOU with the City of Mason to provide Fire Services as the primary responder in a portion (Appendix A, Area 3 in proposed MOU) of Alaiedon Township.

The MOU has expired and Delhi Township has expressed a desire to continue this partnership. After an evaluation of the services provided by the City of Mason, the Standby/Administrative Fee was increased to $7,200 from the previous amount ($6,116.15) to reflect the 2015 run volume which is used in the calculation. Otherwise, the agreement remains the same. The proposed Memorandum of Understanding provides for these updated fees and extends the agreement for another year.

RECOMMENDED ACTION

Move to approve the resolution.

Introduced:
Seconded:

CITY OF MASON
CITY COUNCIL RESOLUTION

APPROVAL OF THE MEMORANDUM OF UNDERSTANDING BETWEEN DELHI TOWNSHIP AND THE CITY OF MASON TO PROVIDE FIRE SERVICES IN A PORTION OF ALAIEDON TOWNSHIP

February 1, 2016

WHEREAS, the Delhi Township is contracted by Alaiedon Township to provide Fire Services for Alaiedon Township;

WHEREAS, the City of Mason has previously entered into a Memorandum of Understanding with Delhi Township to provide fire services as the primary responder to a portion of Alaiedon Township (Resolution: 2015-09);

WHEREAS, the City of Mason is committed to being a regional partner and working with the surrounding townships; and

WHEREAS, Delhi Township and the City of Mason desire to renew the agreement, with increased Standby fees, that is beneficial to all parties.

NOW THEREFORE BE IT RESOLVED, that the City Council approve the Memorandum of Understanding between Delhi Township and the City of Mason to provide Fire Services in a portion of Alaiedon Township; and

NOW THEREFORE BE IT FINALLY RESOLVED, that the City Council authorize the City Administrator and the Fire Chief to execute the agreement on their behalf.

Yes ( )

No ( )

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the City Council at its regular meeting held Monday, February 1, 2016, the original of which is part of the City Council minutes.

_____
Deborah J. Cwiertniewicz, City Clerk
City of Mason
Ingham County, Michigan

MEMORANDUM OF UNDERSTANDING BETWEEN
DELHI CHARTER TOWNSHIP AND THE CITY OF MASON
FOR FIRE SERVICES WITHIN
ALAIEDON TOWNSHIP

THIS AGREEMENT, made and entered into as of the 1st day of January 2016 , by and between the Charter Township of Delhi, whose address is 2074 Aurelius Road, Holt, Michigan 48842 (hereinafter referred to as "Delhi") and The City of Mason, whose address is 201 W. As Street, Mason, Michigan 48854 (hereinafter referred to as "Mason").

The Charter Township of Delhi provides contract fire protection to Alaiedon Township and, in order to provide the best delivery of services, Mason hereby agrees to provide mutual aid fire response and services to Delhi within Alaiedon Township per the following policy.

1. ***Fire Protection and Rescue Service.*** All fire and rescue calls dispatched by Ingham County 911 Center in Alaiedon Township for properties located within the following described boundaries will be served by Mason. Mason will make available for such purpose all equipment and personnel available at said time, consistent with prudent reserves for fire protection and rescue needs elsewhere. Equipment utilization and staffing shall be within the sole discretion of authorized Mason Fire Department officers. On US-127, response will be provided to only those calls wherein fire or extrication is needed. This agreement shall not include any ambulance or EMS service within the boundaries of Alaiedon Township. The response area includes the following: (As described as "Area 3" in Appendix A)

Description: ***Beginning at the corner of Meridian Road and Holt Road then west to Okemos Road, then south to Harper Road, then west to College Road, then south to Howell Road, then east to Meridian, then north to the point of beginning at Holt Road. As outlined in area "3" in Appendix A.***

2. ***Compensation.*** Compensation to Mason for each category of service shall be paid by Delhi as follows:

2A. **Standby and Administrative Fee**. An annual standby and administrative fee shall be paid by Delhi to Mason during the term of this Agreement in the amount of Seven thousand Two hundred dollars and no cents ($7,200). Payment shall be made in equal monthly installments of Six hundred dollars and no cents ($600.00), commencing on the first day of January, 2016 and continuing on the first day of each month thereafter through the end of the term of this agreement. This annual fee may be modified in the following manner based on the annual contract price between Delhi and Alaiedon Township.

A party proposing to modify this annual fee may do so by giving the other written notice of such, and such modified annual fee becomes the new annual fee, unless within 60 days after receipt of such notice, the other party objects in writing to such a modified fee.

If not objected to, the modified fee shall be the new annual fee 60 days after the initial notice and shall be paid in monthly installments over the remaining term of the agreement, unless the parties agree otherwise. The modified annual fee and monthly payments shall be noted in an attached Exhibit A to the agreement, but the failure to attach or update Exhibit A shall not mean that the fee has not been modified.

B. ***Fire Run Charge.***

1. ***All Fire and Rescue Calls:*** $600 per call

2. ***All Additional Hours after the 1st hour:*** $400 per hour for each hour after the initial hour. Hours will be measured from time of alarm until all units and personnel have completed all tasks associated with the call. Additional hours shall be measured in quarter hour increments.

3. ***Cancelled Calls:*** Calls which are cancelled prior to any unit leaving the station will not be charged.

C. Reporting / Invoicing Required

1. ***Reports:*** Copies of NFIRS Incident reports for all incidents which Mason covers within Alaiedon Township during any month will be provided to Delhi no later than the 5th of the following month. Reports will include the name, address and phone number of those persons who received the fire and/or rescue service.

2. ***Invoice:*** An invoice will be provided to Delhi along with the NFIRS copies. Invoices will indicate date, time, address, total hours and total fee due for each call.

Payment for fire services rendered pursuant to subparagraphs B and C above shall be made within sixty (60) days of billing.

3. ***Employee Protection.*** Mason shall maintain all required insurance coverage pertaining to its fire fighting personnel and equipment, which coverage shall be in the same amount and equally applicable to losses which may be incurred while providing fire fighting services to Alaiedon Township required herein

4. ***Fire Chief Discretion.*** The level of response, the selection of the appropriate units, personnel and apparatus for response, and a determination of priorities between the City, Township and neighboring calls for cooperative fire enforcement activities under mutual aid shall be solely the responsibility of the Mason Fire Chief or the chief's designee. It is understood that the City may enter into agreements similar to this Agreement with other townships for fire protection in such townships or portions thereof and this Agreement shall not be construed to restrict or limit the authority of the City to enter into such Agreements or mutual aid agreements or to cooperate with or assist other city, county, or state fire agencies in performing any official powers or duties as authorized by law. The parties hereto agree that in the event emergencies shall arise or exist in two or more places to which the City may have contracted to render fire protection service, then and in such event the place to which the City fire department shall apply itself shall be at the sole discretion of the Fire Chief or the Chief's designee, and the City shall be relieved from all direct obligation under this Agreement to furnish fire protection to the property of the individual township, if in such discretion the said fire department shall respond and apply itself to one such emergency and not to another. The City shall, however, maintain sufficient agreements for mutual aid with other fire departments and shall call on said fire departments to respond to a call for fire protection in the Township in the event the City is unable to respond. Neither the City nor the Department, nor its officers or employees, shall be liable to any party for failure to respond to a request for fire protection services for any reason.

5. ***Governmental Immunity.*** In signing this Agreement, neither governmental entity waives its governmental immunity nor any defenses available to them or their elected or appointed officers or employees under the Michigan Governmental Immunity Act, being 1964 PA 170, as amended, MCL 691.1401, *et seq,* or any other defenses which may be available to each governmental unit, its elected and appointed officers and officials, and its agents and employees.

6. ***No Third-Party Rights.*** Nothing in this Agreement shall create any rights, remedies, or benefits or be construed to create or be intended to create any rights, remedies, or benefits to any person or party other than the parties to this Agreement.

7. ***Non-Discrimination.*** The parties agree that neither shall discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of this contract which allows the non-discriminatory party to immediately terminate this agreement.

8. ***Term.*** This agreement shall commence at 12: 01 a.m. on January 1, 2016 and shall continue until midnight December 31, 2016. This agreement may be renewed, extended or modified upon the mutual consent of both parties. In the event of renewal, the then-current annual standby and administrative fee under paragraph 2A shall continue for another year.

9. ***Termination.*** Notwithstanding anything in this paragraph to the contrary, either party to this agreement may terminate it upon 60- days' written notice to the other.

10. ***Parties' Authority.*** The parties hereby represent that their respective signatories execute this Agreement with the requisite authority to sign and bind the parties and that each party respectively has complied in all respects with their applicable by-laws, charters, articles, and constitutions and has passed all necessary resolutions before executing this Agreement.

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date above first written.

THE CITY OF MASON

By: _____
Deborah Stuart
Its: ***City Administrator***

By: _____
Kerry Minshall
Its: ***Fire Chief***

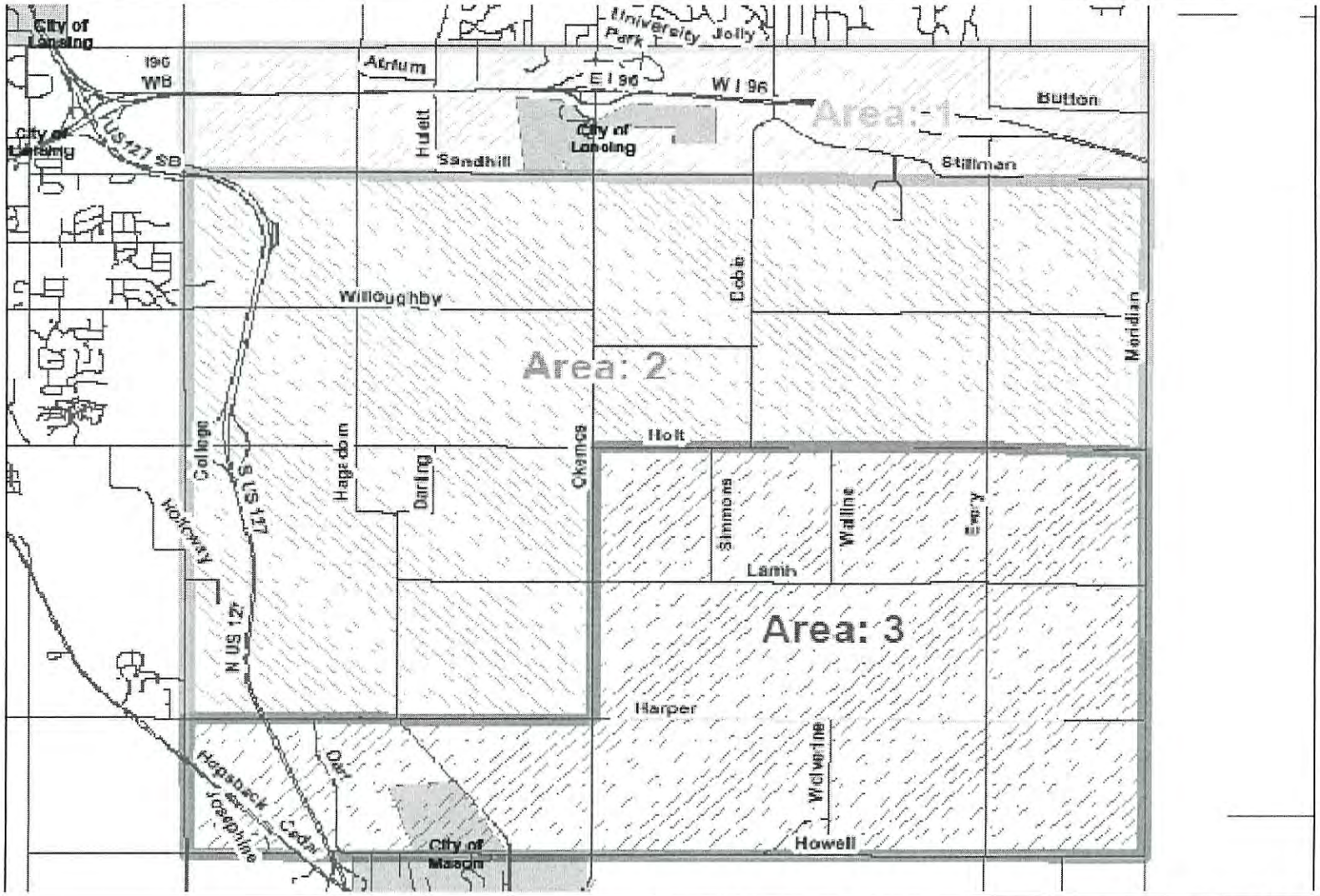
And. ***THE CHARTER TOWNSHIP OF DELHI***

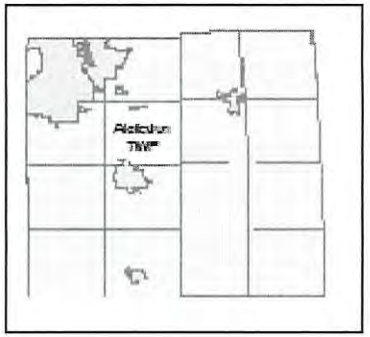
By: _____
John Elsinga
Its: ***Manager***

By: _____
Brian J. Ball
Its: ***Fire Chief***

Appendix A

Alaiedon Response Areas





Legend

- Cities

Fire Areas

- 1_ Meridian Township
- 2_ Dehl Township Fire
- 3_ Mason Fire

1 inch = 5,208.3 feet

N

0 0.5 1 2 3 4 Miles

This map is intended for use as generalized township wide planning and there are no warranties that accompany this product. The township recommends users of this map to confirm the data used in this map by visual inspection of the geographic area. The township is not liable for decisions made with the use of this product.

Map Source: Dehl Charter Township

Notes:

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: February 1, 2016 **Agenda Item:** 7B

AGENDA ITEM
Motion - Approval of Change Order to the Awarded Contract for the Ash Street Well Rehabilitation

EXHIBITS
None

STAFF REVIEW
Department of Public Works

SUMMARY STATEMENT
On January 18, 2016 the City Council awarded Northern Pump and Well the contract to rebuild the Ash Street Well for $22,752.00. This was anticipated to be the maximum cost associated with this project. However, when the contractor evaluated the well pump and column pipe, they determined that the pump needed to be replaced and could not be rebuilt as proposed in the bid. All other items came within the bid prices.

Northern Pump and Well provided a credit to the City of Mason of $4,415.00 for not rebuilding the pump and $6,389.00 was added for the cost of a new pump which increased the project by $2,965.00. The total contract price changed from $22,752.00 to $25,717.00. The 2015/2016 budget line for this project is $39,000.00.

RECOMMENDED ACTION
Approval of the Change Order ($2,965 increase) for the Ash Street Well Rehabilitation

CITY OF MASON

AGENDA REPORT TO CITY COUNCIL

Meeting Date: February 1, 2016 **Agenda Item:** 9A

AGENDA ITEM
A Resolution Calling for the Repeal of Public Act 269

EXHIBITS
- Michigan Municipal League: PA 269 / SB 571 Background Information
- Michigan Municipal League: "Civic and Education Leaders Call for Repeal of Gag Provision in PA 269 / SB 571". January 7, 2016. Joint Statement released by the Michigan Municipal League and other organizations.

REVIEW
Council Member Brown

SUMMARY STATEMENT
The Michigan Municipal League is encouraging member communities to formally express opposition to PA 269, which was signed into law, with immediate effect, on January 6, 2016. Section 57, subsection (3) of this act essentially places a "gag order" on local officials from informing the public about local ballot measures within 60 days of an election. This provision could potentially have a detrimental impact on the local ballot measure process and there are significant legal questions regarding the constitutionality of this new law.

Several local government associations/organizations have united in their opposition to PA 269 including:

- Michigan Municipal League
- Michigan Association of Counties
- Michigan Townships Association
- Michigan Infrastructure & Transportation Association
- Michigan Association of School Administrators
- Michigan Association of School Boards
- Michigan Association of Intermediate School Administrators

RECOMMENDED ACTION
Council's pleasure.

Introduced:
Second:

CITY OF MASON
CITY COUNCIL RESOLUTION

CALLING FOR THE REPEAL OF PUBLIC ACT 269

February 1, 2016

WHEREAS, Public Act 269 (Senate Bill 571) was signed into law, with immediate effect, on January 6, 2016, and

WHEREAS, this new law prohibits a public body, or a person acting for a public body, from using public funds or resources for the purpose of communicating any information to the electorate regarding a local ballot question that is to appear on the ballot, within 60 days of an election, and

WHEREAS, this law places an immediate gag order on entities with ballot questions on the March 8 ballot and every election thereafter; and

WHEREAS, municipal elected and appointed officials have a civic and legal duty to the residents of their communities to fully inform them regarding the issues placed before them, upon which they may exercise their constitutional right to vote; and

WHEREAS, existing laws, including the former language in Section 57, and decades of guidance from the Michigan Secretary of State, already prohibit the use of public funds to advocate for or against ballot issues; and

WHEREAS, existing laws already provided for an allowance for elected and appointed officials to express their views without fear of violating the act; and

WHEREAS, because the new law bans only communication on local ballot issues, it creates inconsistent treatment of statewide ballot questions versus local initiatives; and

WHEREAS, there are substantial questions regarding the constitutionality and legality of the new law, including a possible ban on freedom of speech;

NOW, THEREFORE, BE IT RESOLVED, that the Mason City Council calls for the Michigan Legislature to immediately repeal the new language in Section 57, subsection (3) of PA 269 of 2015; and

BE IT FINALLY RESOLVED, that a copy of this Resolution shall be forwarded to the city's state legislators in the Michigan House of Representatives and the Michigan Senate.

Yes ( )

No ( )

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Mason City Council at a public meeting held on February 1, 2016, the original of which is part of the Council's minutes.

_____
Deborah J. Cwiertniewicz, Clerk
City of Mason
Ingham County, Michigan

mml.org

PA269-SB571

Lawsuit

ROBERT TAYLOR, et al v RUTH JOHNSON, Secretary of the State of Michigan, and the STATE OF MICHIGAN, Jan.. 26, 2016

Sample Resolution

Entitles Putting Items on the March 8, 2016 Ballot

Explanation and Talking Points

History

SB 571 was initially a non-controversial 12-page bill that had bipartisan support. But on late Wednesday night (Dec. 17, 2015) the House brought the bill up for consideration and a substitute version was adopted that increased the 12-page bill to 53 pages in length. This included inserting new language into Section 57 of the existing act that deals with permissible and prohibited activities by public bodies on election-related issues. This language was inserted without any notice to the League or other local government organizations and moved without any public testimony, let alone public awareness of what was in the new version of the bill. The bill was passed around 10:30 pm Dec. 17 largely along party lines and sent to Governor Snyder for his signature.

The new language in Section 57 states:

(3) EXCEPT FOR AN ELECTION OFFICIAL IN THE PERFORMANCE OF HIS OR HER DUTIES UNDER THE

MICHIGAN ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992, A PUBLIC BODY, OR A PERSON ACTING FOR A PUBLIC BODY, SHALL NOT, DURING THE PERIOD 60 DAYS BEFORE AN ELECTION IN WHICH A LOCAL BALLOT QUESTION APPEARS ON A BALLOT, USE PUBLIC FUNDS OR RESOURCES FOR A COMMUNICATION BY MEANS OF RADIO, TELEVISION, MASS MAILING, OR PRERECORDED TELEPHONE MESSAGE IF THAT COMMUNICATION REFERENCES A LOCAL BALLOT QUESTION AND IS TARGETED TO THE RELEVANT ELECTORATE WHERE THE LOCAL BALLOT QUESTION APPEARS ON THE BALLOT.

In the days and weeks following approval of SB 571, many legislators—both Republicans and Democrats—said they did not fully read or know what was in the amended language. Some Republicans, after reading the bill and learning of its full negative implications and many unanswered questions, even said they encouraged the governor to veto the bill.

Despite the many concerns raised about the bill, Governor Snyder signed it into law Wednesday, Jan. 6, 2016. The governor, in a somewhat unusual move, sent out a letter explaining why he signed the legislation despite the many unknowns and questions about the bill.

In his letter, the governor also called on the Legislature to enact new legislation to address the many concerns raised by the Michigan Municipal League and other organizations. Here is an excerpt from that letter:

> *However, recognizing that many local governmental entities and schools have raised concerns regarding confusion with the new language in section 57, I am calling on the Legislature to enact new legislation to address those concerns, and clarify that the new language does not impact the expression of personal views*

> *by a public official, the use of resources or facilities in the ordinary course of business, and that it is intended only to prohibit the use of targeted, advertisement style mass communications that are reasonably interpreted as an attempt to influence the electorate using taxpayer dollars. Local governmental entities and schools should still be allowed to distribute basic information about an election including the proposed or final ballot language and the date of the election. This is keeping within the spirit of the existing restrictions in the Act. The Senate Majority Leader and the Speaker of the House have agreed to work together on follow-up legislation clarifying the provision in section 57 of the Act in time for the March 2016 election.*

New legislation to "fix" PA 269/SB 571 could be dropped in the Legislature as early as next week (week of Jan 11, 2016).

The League and several other organizations, including the Michigan Association of Counties, Michigan Townships Association, Michigan Association of School Boards, Michigan Association of School Administrators, believe there are significant constitutional and legal questions regarding PA 269, including a potential ban on freedom of speech. Repealing the provision is the only way to guarantee officials will be able to continue to give voters the facts. Ironically, Section 57, prior to the new language in SB 571, already provided the controls lawmakers were seeking.

Specific concerns with the new language:

- The previous language in Section 57 (prior to the amendments) appropriately provided an allowance of elected and appointed officials to express their views without fear of violating the act. This new subsection does not appear to account for that allowance and could be read as a ban on freedom of speech.

- The prohibition on any communication by television that references a local ballot question would seem to put every public access broadcast of a city council meeting at risk for violating this new provision. There is also no allowance for a public broadcast of a debate or voter forum, even if that forum is hosted by a third party.

- Community newsletters, and potentially even election-day reminders, that are mailed to residents could be banned under this language.

- Because this language specifically bans communication on only local ballot questions, the provision creates inconsistent treatment between communicating with residents on statewide ballot questions versus local questions.

- Any violation of this section puts a community at risk for a state fine of up to $20,000 and for an individual a fine of up to $1,000 and/or a year in jail.

- Because the law took immediate effect, it places an immediate gag order on local government entities with issues on the March 8, 2016 ballot and all subsequent elections. This impacts more than 100 cities, villages, townships, school districts, counties, and other entities that have ballot questions before the voters in the March 8 election.

In summary, this language puts an undue burden on communities and their residents, blocking access to unbiased, objective communication on the local issues that matter most to the residents in every community in Michigan. Please contact your lawmakers and tell them to repeal the new language in Section 57 of PA 269.

View a joint statement from the League and other organizations calling for a repeal of this new language.

mml.org

Civic and Education Leaders Call for Repeal of Gag Provision in PA 269/SB 571

Contact:

Kathy Barks Hoffman
517-485-6600

Matt Bach
Director of Media Relations
Michigan Municipal League
(734) 669-6317
mbach@mml.org; www.mml.org

FOR IMMEDIATE RELEASE: Jan. 7, 2016

LANSING, Mich. – A coalition of organizations representing local government and schools is calling for a repeal of a gag order provision included in a campaign finance bill signed into law by Gov. Rick Snyder on Wednesday, Jan. 6.

The Michigan Municipal League, Michigan Association of Counties, Michigan Townships Association, Michigan Infrastructure & Transportation Association, Michigan Association of School Administrators, Michigan Association of School Boards and Michigan Association of Intermediate School Administrators today are jointly seeking removal of language added to Section 57 in PA 269/SB 571. The organizations also are responding to Gov. Rick

Snyder's letter to lawmakers asking them to fix a section in the new law that drastically limits the ways local officials can inform voters about local ballot measures:

"Public Act 269 essentially gags local officials from giving voters important information on local ballot issues, and the only way to fix that is to repeal that new addition to the law," said Dan Gilmartin, executive director and CEO of the Michigan Municipal League. "City, township, county, school and other officials agree that constituents need to have the facts to become informed voters on key matters that come before them, including charter changes, land transfers, millage questions and other issues required by state law to go to local elections. Repealing the provision is the only way to guarantee officials will be able to continue to give voters the facts."

The provisions causing such concern ban local officials or employees of local governments from using public resources for a communication 60 days before an election "by means of radio, television, mass mailing or prerecorded telephone message if that communication references a local ballot question."

The coalition points out that Gov. Snyder, in signing Senate Bill 571 into law Wednesday, called on the Legislature to enact new legislation to address local government and school officials' concerns. The governor stated in his letter to lawmakers that local governments and schools "should still be allowed to distribute basic information about an election including the proposed or final ballot language and the date of the election."

The groups behind today's statement agree that local governments should be able to communicate basic information that's factual and does not sway the voting public. However, the language in Section 57 does not allow for that – therefore a repeal is necessary.

"Voters are entitled to, and expect, their local officials to fully

explain the ramifications of local ballot issues," said Larry Merrill, executive director of the Michigan Townships Association. "Local public bodies are regularly required by law to defer to the wisdom of voters on many complex issues of public policy. It is imperative that voters be well-informed on the purpose, intent and consequences of the decisions they make when they vote on local ballot issues.

"This is a matter of extreme importance to the principle of local democracy," Merrill added. "Contrary to the characterization of interest groups supporting these restrictions, local elected officials are neither 'bureaucrats' nor 'lobbyists,' but are persons who have been elected by these same voters to serve as trustees and fiduciaries of the public interest."

State law already prohibits electioneering using public resources, making that section of the new law unnecessary and possibly unconstitutional. In recent days a number of legislators who voted for the bill admitted they were not aware of its scope and some have expressed regret at the limitations created by the local ballot measure section.

Michigan Association of Counties Executive Director Timothy K. McGuire said, "This is about effective, transparent government. The law in its current form harms counties' ability to be transparent with their residents."

The groups issuing today's statement want the provision removed from PA 269 immediately because the law took effect Wednesday, Jan. 6, and will impact nearly 50 school districts and local governments in communities from Benton Harbor to Iron County in the Upper Peninsula that have local ballot questions in the upcoming election. Entities with ballot items heading to voters on March 8 include Clare County, East Grand Rapids Public Schools, Goodrich Schools, Lansing School District, Ottawa County, Pontiac School District, Tuscola County, Iron County, and the cities of

Birmingham, Fremont, Marine City, Romulus and Roseville.

"Those entities with items on the March 8 ballot will be within that 60-day window on Jan. 8 and under the gag order called for in the current law," said Don Wotruba, executive director of the Michigan Association of School Boards.

"Voters need access to accurate information on how the money would be spent and what the consequences will be for area children – including their own – if school districts win or lose those elections," he added. "School and local officials already are banned from advocating for a tax increase or bond renewal. They shouldn't be banned from giving voters the facts."

About Michigan Municipal League:
Michigan Municipal League is dedicated to making Michigan's communities better by thoughtfully innovating programs, energetically connecting ideas and people, actively serving members with resources and services, and passionately inspiring positive change for Michigan's greatest centers of potential: its communities. The League advocates on behalf of its member communities in Lansing, Washington, D.C., and the courts; provides educational opportunities for elected and appointed municipal officials; and assists municipal leaders in administering services to their communities through League programs and services. Learn more at mml.org.

###

McGINTY, HITCH, HOUSEFIELD, PERSON,
YEADON & ANDERSON, P.C.

MEMORANDUM

TO: Mason City Council

FROM: Thomas M. Hitch, City Attorney

RE: **CITY ATTORNEY REPORTS**

DATE: January 28, 2016

Attached to this memorandum is the first of my written City Attorney Reports which I will be preparing for City Council's review. I have had the opportunity to discuss with Deb Stuart some concerns regarding billings and activities on my part. In an effort to minimize attorneys fees, I have not been attending Council meetings and, therefore, Council may have been unaware of some of the activities that I have engaged in on behalf of the City. In discussing these issues with Deb Stuart, I advised her that it has been my practice with the City of Charlotte to provide a written report briefly summarizing my activities which is provided as part of the Council packet received and reviewed by the City Council. Deb indicated (and I agreed) that preparing a City Attorney Report for each Council meeting would be a good idea if the Council so desires.

As the Council can observe, I provide a short synopsis with some background and information regarding what I have done and what may be upcoming. The memo is not intended to be elaborate, but rather provides a briefing for the Council. As always, should the Council have further inquiries based on these reports, I am more than happy to provide further information.

I hope this is a helpful way to improve communication between the Council and myself. I look forward to providing you with many more reports.

If you have any questions, please do not hesitate to contact me.

bks
Attachment

McGinty, Hitch, Housefield, Person,
Yeadon & Anderson, P.C.

MEMORANDUM

TO: Mason City Council

FROM: Thomas M. Hitch, City Attorney

RE: **CITY ATTORNEY REPORT**

DATE: January 28, 2016

The following is my report to the City Council on several issues in which our office has been engaged:

1. **Ordinance Drafting** - I have prepared my opinion regarding the draft of the medical marihuana ordinance that was prepared by the Planning Commission. I received an email from David Haywood, and had conversations with Deb Stuart, that the report was to be completed prior to February 3, 2016, so that it could be reviewed prior to the Planning Commission hearing scheduled for February 9, 2016.

I expect to attend the City Council meeting when Council takes up the medical marihuana ordinance.

2. ***Esquire Development v City of Mason*** **(MTT No. 14-5644-TT and 15-4504-TT)** - On December 15, 2015, the Michigan Tax Tribunal, the Hon. Steven H. Lahser presiding, issued an order scheduling oral argument before the Tax Tribunal. Petitioner, Esquire Development, had filed a motion for reconsideration of the Tax Tribunal's prior order dated October 28, 2015. The October 28 order dismissed all of the claims raised by Esquire that occurred prior to 2014. In Esquire's motion for reconsideration, it asserted that it was entitled to raise claims going back to tax year 2004 because there had been fraud on the part of the City as it related to its assessments.

In the December order, the City was given an opportunity to respond to the motion for reconsideration and challenged the allegations of fraud. I prepared a brief and filed it with the Tribunal on January 7, 2016. In that brief, I asserted that there was no fraud on the part of the City in that Esquire could show no actions by the City in its Assessing Department that rose anywhere near the level of fraud, as the case law in tax cases defines that term.

Equally, I also asserted that these claims are all barred by the statute of limitations as the pleadings making the allegations of fraud were not filed until June, 2015, and the look-back period for fraud claims is six years. In this case, the claim arose out of the assessing year 2004. In this

regard, I am very hopeful that the Tribunal will affirm its initial decision dismissing these claims and we can move on to reviewing the 2014 and 2015 tax appeals in a normal fashion.

Oral argument is scheduled for February 1, 2016. The Tribunal acts through written orders so I do not anticipate that the judge will rule at the conclusion of our hearing, but will rather issue a written opinion. I will keep Council advised.

3. ***J & J Properties v Mason School District*** - At this point, I am monitoring the process of gathering signatures on the easements that have been prepared. We had hoped that the easements would have been signed by the end of 2015, but that did not occur. The plan is that the easements will be executed so that the construction can occur this spring. I will keep Council advised as to the progress of this project.

bks

michigan municipal league

Better Communities. Better Michigan.

Dear League Member,

We want to thank you for your continued commitment to the Michigan Municipal League. Enclosed is your 2015-16 membership certificate, which we hope you will display proudly. It is because of your support that the League is able to advocate successfully for communities across Michigan. The League is the one clear voice for Michigan communities. We are here to aid you through our legislative and judicial advocacy, our educational opportunities for elected and appointed officials, and our many service offerings. We hope you will take full advantage of your League membership by exploring all that we have to offer.

For more information about the League, and the services available to your community, please visit our website at www.mml.org or contact us at (800) 653-2483. Thank you again for your continued participation, confidence, and investment in the Michigan Municipal League.

Sincerely,

Daniel P. Gilmartin
Executive Director & CEO

John B. O'Reilly, Jr.
President, 2015-2016

Enclosure

michigan municipal league

2015-2016 Member of the

Michigan Municipal League

Better Communities. Better Michigan.

JACK B. CARMICHAEL

519 South Rogers Street Mason, Michigan 48854 USA

January 20, 2016

Dear President Obama:

Thank you for responding to my letter.

For several months now the West Bay Exploratory Company of Traverse City, Michigan has approached Mason property owners asking them to lease oil and gas rights under their residences. For example, West Bay has offered me a 12% royalty for such a lease never mentioning that, due to my small tract of 0.2 acres, my royalty would amount to less than one cent a barrel of oil at present oil prices. My calculations show that would be probably $5/month.

For months the City Council of Mason and the City Administrator have turned a deaf ear to my pleas for a moratorium on West Bay activities here or an environmental impact study of such an oil and/or gas well (noting that the proposed well is outside of Mason in nearby Vevay Township but, noted by me, within a stone's throw of the Mason city limits and Mason High School).

The Michigan Department of Environmental Quality has been mentioned by the U.S. Environmental Protection Agency and Senator Debbie Stabenow as the sole agency with authority to issue West Bay a permit to drill. Thus far West Bay has not applied for such a permit. Mark Snow, Chief of the Permits Section in the Oil and Gas Department of the DEQ, has promised to email me the request once it has been submitted. But the Mason citizens, the citizens and businesses of Vevay Township, the Mason City Council and the City Administrator, Mason public schools, and the Supervisor of Vevay Township will normally have only 30 days in which to make their concerns known.

We need more time, Mr. President. This geographical area generally is known for oil with a high sulfur content. We need an environmental impact study before, for just one example, the stench of a well in such a close proximity to our high school overcomes our students and staff, not to mention the effects upon Mason as a whole.

The future of Mason is at stake.

Thank you, President Obama, for your continued attention.

Sincerely yours,

Jack B. Carmichael

Jack B. Carmichael, Ph. D.

519 South Rogers Street, Mason, MI 48854-1735

Copied to all interested parties (list appended)

Biographies: Two Thousand Notable American Men, 2nd Edition • International Who's Who of Intellectuals, 10th Commemorative Edition • Dictionary of International Biography, 23rd Edition • The International Authors and Writers Who's Who, 13th & 14th Edition

Copies of January 20th letter to President Obama:

Senator Debbie Stabenow

Tinka G. Hyde, U.S. Environmental Protection Agency, Region 5

Governor Rick Snyder, State of Michigan

State Representative Tom Cochran, Michigan

State Senator Curtis Hertel Jr., Michigan

Mark Snow, Supervisor, Permits and Bonding, Michigan Dept. of Environmental Quality

Deborah Stuart, New Administrator, City of Mason, MI

Michael Waltz, Mayor, City of Mason, MI

Jess Ramey, Supervisor, Vevay Township, Michigan

Ronald Drzewicki, Mason Superintendent of Schools, Mason, MI

Dante DiFonzo, General Manager, Meijer, Vevay Township, Michigan

Nick Proctor, General Manager, Gestamp Company, Vevay Township, Michigan

Jane@merindorfmeats.com – Store manager, Vevay Township, Michigan

Current State, WKAR radio, East Lansing, Michigan

The Lansing State Journal, Lansing, Michigan

Mason Today newspaper, Mason, MI

Mrs. Stuart:

Please be ready to advise the DEQ why West Bay should not be permitted to drill beneath residential Mason.

Best regards,

Jack B. Carmichael

HENDERSON

Face to face with America's history of slavery

OPINION, 8A

18 High | 10 Low

SUNNY, BUT BRISK AND VERY COLD

FORECAST, 2A

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Corrections..2A
Deaths 7A
Editorials 8A
Horoscope ...2C
Life 1C
Lottery.....2A
Metro.....4A
Movies 3C
Puzzles 5C
Sports 1B

CONTACT US

Delivery questions: 800-395-3300
News tip hotline: 313-222-6600
Classified: 586-977-7500; 800-926-8237

Vol. 185, Number 259

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$1.00

Fatima Yahya, 14, of West Bloomfield

Metro youths upbeat despite current conflicts engulfing nation

By Lori Higgins
Detroit Free Press

Devorne Davis had to prove he lived in the neighborhood where he was walking when stopped by police in Alabama.

Alessandra Alvarez-Paines is sometimes labeled the "white girl" in school because of her light skin tone.

Fatima Yahya feels the pain when she hears of other Muslims being treated poorly because of their religion.

Jeffrey Voth switched schools in part because he was bothered by kids being bullied because of their race.

As the nation marks Dr. Martin Luther King Jr. Day today, the experiences of these metro Detroit teens shows the country is far from resolving the racial strife King dreamed of ending. Despite that, most of the nearly two dozen teens who shared their thoughts on King's legacy and race relations with the Free Press last week were deeply optimistic about the future, even as they expressed worries about current con-

See TEENS, Page 7A

VIDEOS ONLINE
Teens share thoughts about King and race relations

Neighbors fight Southfield church's plan to fund its mission with oil well

Environment, property values concerns

By Keith Matheny
Detroit Free Press

A Southfield church is looking to raise money not through bottle drives, car washes or passing the collection plate, but by installing an oil well on its property.

And that's got some in the community — including city officials — not exactly loving their neighbor.

Word of Faith International Christian Center, run by Bishop Keith Butler, a former Detroit city councilman and GOP candidate for U.S. Senate, was approached last spring by Traverse City-based oil exploration company Jordan Development about the possibility of drilling on the church's 110 wooded acres off West 9 Mile and Evergreen, church spokeswoman Andrea Simpson said. Jordan Development has applied to the state Department of Environmental Quality for permission to drill a test well at the church to assess the viability of extracting oil there.

The proposed well calls attention to the limitations in newly revised state regulations for oil and gas development designed to tighten rules for drilling in densely populated, residential areas.

Those revisions were instituted last February in a new state "instruction" at the recommendation of a DEQ-convened task force that included the Michigan Townships Association, the Michigan Oil and Gas Association and citizens. It was prompted by public outcry over an oil well drilled in August 2014 in Macomb County's Shelby Township, only about 500 feet from a residential neighborhood, that led to

See OIL WELL, Page 3A

Gov. Rick Snyder
Health and Huma

Mild w Great water

By Keith Mat
Detroit Free Press

It has see
Michigan's
Lakes level
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Detroit Free Press 1.18.2016

WORD OF FAITH INTERNATIONAL CHRISTIAN CENTER

Jordan Development has applied to the state for permission to drill a test well at the Word of Faith church compound in Southfield to assess the viability of extracting oil from its 110-acre wooded property.

OIL: Southfield church's plan to install well raises concerns

FROM PAGE 1A

noisy drilling 24-7 for about three weeks, along with bright lights at night and truck and heavy equipment traffic.

But the tougher regulations apply only to proposed well locations in a county with a population of 750,000 or more, in sites zoned for residential use and where there are 40 or more occupied structures in any 90-degree quadrant within 1,320 feet of the well location. The first two requirements apply at the Word of Faith location. But there are only 35 occupied dwellings in a quadrant within 1,320 feet of the proposed well, DEQ Supervisor of Wells Hal Fitch said, meaning the area falls five dwellings short of having the new restrictions kick in.

"Nevertheless, the DEQ will consider requiring most of the restrictions from the instruction if a permit is to be issued," he said.

Arguments for, against

The potential revenue from an oil well would allow the church to further its mission work, Simpson said.

"We help this community; we feed, we clothe," she said. "We do our best to be a blessing to the people of this community, whether they are members of this church or not ... that costs money."

But those living near the church worry about the potential disruption to the environment, their quality of life and their property values.

The development will be close to residential neighborhoods, the Rouge River, businesses and schools. And trees on the Word of Faith property won't hide the project or its impacts, said Larry Quarles, 67, a retired engineer who lives in the Magnolia subdivision less than a mile away.

"I understand the need for the church to raise funds; at my church, we have a similar situation," he said. "But we would never, never do something like this. As a religious organization, we would never think of impacting neighbors or the community."

Added fellow Magnolia subdivision resident and retiree Skip Davis, 72: "This is the greatest threat our neighborhood has ever confronted, as far as I'm concerned.

"The overarching concern is just damage to the planet. We're on a watershed, with groundwater and tributaries to the Rouge River. There's a forest preserve just across the street. On a personal level, the impact to property values is a big concern. It isn't exactly an amenity to say I live just down the street from a future fracking well."

Jordan Development Vice President Ben Brower, however, said the well, if viable, would never be "fracked," referring to the controversial drilling practice of hydraulic fracturing, in which sometimes-millions of gallons of water and often-undisclosed chemicals are injected into the ground to break up mineral formations and enable the extraction of oil or gas. The geological formation in the Southfield area doesn't lend itself to that drilling method, he said.

The company is interested in the Word of Faith property because seismic testing in the area revealed underground "anomalies" that could mean oil, Brower said. Should the test well prove successful and the company want to drill further at the church, a new permit process would be required by the DEQ.

Jordan Development has followed all of the requirements asked of it, Brower said.

"This is a 110-acre parcel that has lots of space, in a wooded area that's screened on all sides," he said. "There's been hundreds of wells drilled in Oakland and Wayne county. It's funny, people are acting as if this is the first well ever drilled there. It may be new to Southfield, but it's not new to southeast Michigan."

The city's position

But it won't happen in Southfield if city officials get their way. The city instituted a moratorium on oil and gas development that runs through April 28.

"It's highly inappropriate in a residential area," Mayor Kenson Siver said. "We're concerned about possible environmental hazards, contamination, the loss of trees that will have to be removed in this woodland that's on their property. We don't know how much truck traffic, how this oil would be moved if there is oil there. We have a whole number of concerns."

If an oil well were fully developed on the property, additional traffic would consist of one pickup driving in to check on the well daily and a tanker truck to remove oil that would enter and exit no more frequently than every other day, Brower said. Truck traffic from a nearby gas station on 9 Mile is far more considerable, he said.

State Rep. Jeremy Moss, D-Southfield, recalled that when he served on the Southfield City Council with Siver in 2012, they sent a resolution to the DEQ demanding an examination of the health and environmental impacts of drilling in residential neighborhoods.

"There were some people in our community who kind of derided it, who said we were getting into issues that weren't relevant to Southfield," he said. "Here we are, almost four years later, living with the reality that this could happen in our community."

Whatever decision the DEQ makes on the well permit, the city's moratorium is lawful and should stop further action on the well, Moss said.

"I don't believe the state should disallow the community to catch its breath, do its due diligence and decide how to go forward," he said.

Fitch noted that state oil and gas permits emphasize that they do not preclude the necessity to obtain other federal, state or local permits which may apply.

Word of Faith officials had many of the same fears others in Southfield are expressing, Simpson said.

"We're not going to do anything — we wouldn't do anything — that harms our community, harms our neighbors, harms this land," she said.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 1 4 2016

REPLY TO THE ATTENTION OF:
WU-16J

Jack B. Carmichael
519 South Rogers Street
Mason, Michigan 48854

Dear Mr. Carmichael:

I am responding to your July 16, 2015 letter to President Obama urging the U.S. Environmental Protection Agency to investigate oil and gas leasing and production around Mason, Michigan.

In your letter, you requested that an environmental impact assessment (EIA) be prepared regarding the proposed West Bay oil and gas extraction projects in the Mason, Michigan area. Regulation of oil and gas wells in Michigan is the responsibility of the Michigan Department of Environmental Quality's (MDEQ) Office of Geological Survey. MDEQ requires that the application for a permit include an EIA. MDEQ evaluates this EIA as part of its determination on the adequacy and completeness of the application. For further information regarding Michigan's Oil & Gas Permitting Program, you can contact:

Mark Snow
Supervisor, Permits and Bonding Unit
Office of Geological Survey
Michigan Department of Environmental Quality
525 West Allegan Street
Lansing, Michigan 48909
517-541-1530
snowm@michigan.gov

Related to the potential drinking water impacts, source water protection is not a federal requirement, and is a voluntary activity for public water supplies in Michigan. However, as a concerned citizen, you should work with the City of Mason to update Mason's existing source water assessment. With an updated source water assessment, the City can then develop a Wellhead Protection Plan.

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For further information regarding Michigan's Source Water Protection Program, you can contact:

Jason Berndt
Environmental Quality Analyst
Office of Drinking Water and Municipal Assistance
Michigan Department of Environmental Quality
2100 West M-32
Gaylord, Michigan 49735
989-705-3420
Berndtj1@michigan.gov

Also, several references are provided below for your information.

http://www.epa.gov/sourcewaterprotection/local-source-water-protection-planning

http://www.michigan.gov/deq/0,4561,7-135-3313_3675_3695---,00.html

Federal EIAs are prepared under the National Environmental Policy Act (NEPA) by a federal agency that is considering an action with potential for significant impacts to the environment. Since there are no federal actions taking place in the case of West Bay oil and gas leasing and production in the Mason, Michigan area, NEPA is not triggered, and no federal EIA will be prepared. We recommend that you participate in the public comment processes under the MDEQ oil and gas permitting program and work with the City of Mason on updating their source water assessment.

Sincerely,

Tinka G. Hyde
Director, Water Division

cc: Mark Snow, MDEQ
Jason Berndt, MDEQ

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MEMORANDUM

TO: Honorable Mayor and Council Members

FROM: Deborah Stuart, City Administrator

DATE: February 1, 2016

RE: ITEM 13: City Administrator's Report

Budget Workshop:
The 2016/2017 budget preparation has begun and staff is recommending establishing budget workshops with the City Council on the evenings of April 5 and April 6. The workshops will be held in the Training Room of Mason City Hall. Please check your calendar so we can establish these dates. Mary Grace will be following up with you to confirm availability.